IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7431 OF 2005

Dynamic Logistics Pvt. Ltd. Pune & Ors. ...Petitioners.
Vs.
ICICI Bank Ltd., Mumbai. ...Respondent.

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Mr. C. J. Sawant with Mr. Rishab Shah and Mr. Dilip Rai i/b. M/s. Raval Shah & Co. for the Petitioners.
Mr. D. D. Madon with Mr. Pratap Sakseria and Mr. Vijay Gaikwad i/b. M/s. Manilal Kher & Ambalal for the Respondent.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

October 27, 2005.

P.C.

This petition is directed against the order dated 21st September 2005 whereby the Debts Recovery Appellate Tribunal has dismissed the appeal preferred against the judgment and order dated 1st July 2003 passed by the Presiding Officer of the Debts Recovery Tribunal. By that order, the Learned Presiding Officer allowed the application made for issuance of interim recovery certificate for Rs.23,42,91,487/-. The Learned Tribunal disposed of the appeal relying on the admission made by the Petitioners herein in their balance sheet. The various amounts as set out in the

balance sheet have been set out in para 3 of the order by Debts Recovery Tribunal. The Learned Debts Recovery Appellate Tribunal makes a reference of the judgment of Apex Court in **Uttam Singh Duggal & Co. vs. United Bank of India & Ors.,** 2000 (7) SCC 120.

2. At the hearing of this appeal, on behalf of the Petitioners, the Learned Counsel points out that such an order could not have been passed, considering that the amount was fully secured. The Rule as quoted in the order of DRT provides for a certificate for the amount which is admitted. The fact that there is a security is immaterial in so far as passing an order on admission. The security at the highest can be considered while executing the certificate issued in favour of Respondent No.1 herein. Considering that we do not find that the order of DRAT suffers from any error of jurisdiction or discloses any error apparent on the face of the record. In the light of that, we find no merit in this petition. Consequently, the petition is dismissed.

3. On behalf of the Petitioners, the Learned Counsel seeks stay of the order considering the fact that the balance sheet itself

discloses the amount which is due and payable, this is not a fit and proper case for the grant of stay. Hence, the application for the grant of stay is dismissed.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)